

# **CIVIL SERVICE COMMISSION MINUTES**

**July 21, 1999**

A regular meeting of the Civil Service Commission was held at 2:30 p.m. in Room 310 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Roy Dixon  
Mary Gwen Brummitt  
Sigrid Pate

Comprising a quorum of the Commission

Absent were:

Gloria Valencia-Cothran  
Gordon Austin

Larry Cook, Executive Officer  
Ralph Shadwell, Deputy County Counsel  
Selinda Hurtado-Miller, Reporting

**CIVIL SERVICE COMMISSION MINUTES**  
**July 21, 1999**

2:00 p.m.      CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m.      OPEN SESSION: Room 358, 1600 Pacific Highway,  
San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
2,3,8,9,10		8	

COMMENTS Motion by Brummitt to approve all items not held for discussion; seconded by Pate. Carried.

**CLOSED SESSION AGENDA**  
**County Administration Center, Room 458**  
**(Notice pursuant to Government Code Sec. 54954.2)**  
**Members of the Public may be present at this**  
**location to hear the announcement of the**  
**Closed Session Agenda**

a. Commissioner Austin: **Margaret Wilson**, former employee of the Department of Housing and Community Development (HCD), alleging disability and age discrimination.

b. Ellen Pillsecker, Ralph Shadwell, Senior Deputies County Counsel: Re **Victor Caloca**, et al. v. County of San Diego, et al., Court of Appeal, Fourth Appellate District No. D029663.

**REGULAR AGENDA**

NOTE: Five total minutes will be allocated for input on Agenda Items unless additional time is requested at the outset and it is approved by the President of the Commission.

**MINUTES**

1. Approval of the Minutes of the regular meeting of July 7, 1999.

**Approved.**

## CONFIRMATION OF ASSIGNMENTS

2. Commissioner Brummitt as hearing officer in the appeal of **Paul R. Parris** regarding his leave status by the Office of the Marshal.

RECOMMENDATION: Set a pre-hearing conference to determine if the leave status imposed by the Marshal's Office was a form of discipline.

**Confirmed.**

3. Stewart Kocivar, S.E.I.U. Local 535, on behalf of **Lloyd Devoe**, former Protective Services Worker I, Health and Human Services Agency, requesting a Rule VII hearing regarding Mr. Devoe's receipt of a proposed Order of Removal. (See also No. 8 below.)

RECOMMENDATION: Deny request.

Mr. Kocivar, representing Lloyd Devoe, stated that Mr. Devoe seeks future employment and is being harmed by the Proposed Order of Removal currently in his personnel file. He requested a Rule VII Hearing and/or Rule XI Investigation on behalf of Mr. Devoe. In the interim, if a hearing or investigation is not granted, Mr. Kocivar requested that this matter be continued until DHR had an opportunity to review the County's record retention practice and report back to the Commission.

Anthony Albers, Esq. on behalf of the Agency addressed Mr. Kocivar's request. He pointed out that the matter of removal of the proposed Order and the request for an investigation into record retention were two distinct and separate matters. Ralph Shadwell, Esq. addressed the Commission, stating that appellant is clearly not entitled to a Rule VII hearing as this type of appeal is not provided for in the Rule. He stated that once a Proposed Order is given, it stands on its own merit as an appropriate and legal document.

**Motion by Brummitt to approve staff recommendation; seconded by Pate. Carried.**

## SELECTION PROCESS FINDINGS/COMPLAINTS

### Findings

4. Commissioner Valencia-Cothran: Robert A. McLaughlin, Esq., on behalf of **Arlesia Wilkins** and **Linda Clement** - Supplemental decision in compliance with Fourth District Court of Appeal Order regarding previous appeals/complaints alleging discrimination by the Sheriff's Department and Rule X complaints challenging the selection process for the promotional examination for Detention Processing Supervisor (DPS).

### FINDINGS AND RECOMMENDATIONS

Although the Court did not uphold the Commission's previous decision on discrimination, it did uphold the Commission's decision that the selection process which was challenged by Ms. Clement and Ms. Wilkins was unfair and inadequate, and therefore remanded this matter to the Commission for further review and consideration.

Commissioner Valencia-Cothran was appointed to review the Commission's November 1, 1995 decision in light of the April 6, 1999 decision of the California Court of Appeal, Fourth Appellate District, and to conduct a hearing under the provisions of Rule X. As a result of the Rule X Hearing, Commissioner Valencia-Cothran proposed the following determination of proper remedy:

1. Orders i. and j. are no longer valid and should be rescinded.
2. Orders k. and l. have been substantially complied with and any issue as to their appropriateness is moot.
3. Orders a. - h. and orders m., n., and o., be affirmed based on the 1995 selection process findings of the Commission.
4. Orders a. - h. and m.,
5. n. and o. would have been issued by the Commission based only on the selection process findings and would not have changed had the Commission originally determined that the discrimination charges were unproven.
6. All additional remedies requested by applicants be denied, including retroactive placement in the DPS positions and back pay and seniority based on retroactive placement.

**Motion by Pate to approve the Proposed Determination of Proper Remedy; seconded by Brummitt. Carried.**

5. **Alfred S. Quezada** appealing removal of his name by DHR from the employment list for Corrections Deputy Sheriff.

RECOMMENDATION: Ratify item No. 5. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

**Item No. 5 ratified.**

### **Complaints**

6. **Inola Sheehan**, appealing DHR's determination that she was unsuccessful in the performance test for Animal Care Attendant.

RECOMMENDATION: Deny request.

**Staff recommendation approved.**

## **DISCRIMINATION**

### **Findings**

7. Commissioner Austin: **Margaret Wilson**, former employee of the Department of Housing and Community Development (HCD), alleging disability and age discrimination.

FINDINGS AND RECOMMENDATIONS:

The complaint was referred to the Office of Internal Affairs for investigation and report. The report of OIA was received and reviewed by the Investigating Officer, who concurred with the findings that complainant failed to establish allegations of discrimination based on disability and age; and probable cause that a violation of discrimination laws occurred was not established. It is therefore recommended that Margaret Wilson's complaint be denied.

**Motion by Brummitt to approve Findings and Recommendations; seconded by Pate. Carried.**

## **INVESTIGATIONS**

8. Stewart Kocivar, S.E.I.U. Local 535, on behalf of **Lloyd Devoe**, former Protective Services Worker I, Health and Human Services Agency, requesting a Rule XI investigation to determine the appropriate disposition of documents filed in Mr. Devoe's HHSA's personnel file. (See also No. 3 above.)

RECOMMENDATION: Deny request. (Continued from 7/7/99 CSC meeting)

This matter was discussed in conjunction with item no. 3 above. Commissioner Brummitt recommended that a Committee be impaneled to review the County's practice of record retention relating to discipline matters.

**Motion by Brummitt to deny Mr. Devoe's request, recommend that the Director of DHR impanel a Committee to investigate and report on the County's practice of record retention; seconded by Pate. Carried.**

9. Adell Burge, Steward, S.E.I.U. Local 2028, on behalf of **Mario Hernandez** requesting a Rule XI investigation into management and personnel practices of the Department of the Public Defender. (See also No. 10 below.)

RECOMMENDATION: Deny request.

Adell Burge addressed the Commission on behalf of Mario Hernandez outlining the events leading up to his request for investigation. Ms. Burge disputed the Department's contention about Mr. Hernandez' problem with punctuality and the need for a Performance Improvement Plan (PIP).

In addressing item no. 10 below, Ms. Burge stressed that appellant was not given an unbiased list of appeal officers in which to choose from, but instead was given an option of three officers by the Department. She requested that his performance evaluation be sealed.

Heidi Atwood addressed the Commission on behalf of the Department of the Public Defender upholding the Department's decision to offer three appeal officers to Mr. Hernandez, all three chosen from the clerical staff pool, and who have a clear understanding of the Department's workings. In regard to the clock being set 5 minutes fast (which has since been corrected), Ms. Atwood pointed out that Mr. Hernandez did not bring this issue to light when his complaint ensued, but rather incorporated this fact at a later date. She further confirmed that the PIP was given correctly as Mr. Hernandez was late 40 times, ranging from 2 minutes to 1 hour.

**Motion by Pate to deny Request; seconded by Brummitt. Carried.**

**OTHER MATTERS**

10. Adell Burge, Steward, S.E.I.U. Local 2028, on behalf of **Mario Hernandez**, Departmental Clerk, Department of the Public Defender, requesting the sealing of his performance appraisal covering the period January 22, 1998 to January 22, 1999. (See also No. 9 above.)

RECOMMENDATION: Deny request.

This matter was discussed in conjunction with No. 9 above.

**Motion by Pate to approve staff recommendation; seconded by Brummitt. Carried.**

**Extension of Temporary Appointments**

11. District Attorney

2 District Attorney Investigator IVs (Gregg E. Steitz & Charles R Hansen)

12. Health and Human Services Agency

1 Building Maintenance Engineer (Antonio Loo)

13. Auditor and Controller

1 Administrative Secretary I (Teresa Farala)

14. Assessor/Recorder/County Clerk

1 Photo Reduction Technician (Michael D. Johnson)

**Item Nos. 11 through 14 ratified.**

15. Public Input.

ADJOURNMENT: 4:00 p.m.

**NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE August 18, 1999.**